

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (18-317)**

Subject

Initiative petition from Patricia Thomas regarding a proposed constitutional amendment to Article V. (Received December 12, 2017)

Date

January 2, 2018

Description

This proposal would amend Article V of the Missouri Constitution.

The amendment is to be voted on in November 2018.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, **St. Louis County Board of Elections**, **Board of Election Commissioners City of St. Louis**, **Kansas City Board of Election Commissioners**, **Platte County Board of Elections**, **Jackson County Election Board**, and **Clay County Board of Election Commissioners**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, their office can absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety - Office of the Director** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no added costs or savings to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no fiscal impact to their department/MHTC.

Officials from the **Office of Administration** indicated this proposal amends Article V of the Constitution of Missouri by requiring nonpartisan elections for judges of the Supreme Court and Court of Appeals. Elected judges would serve six-year terms and could not hold a particular judicial seat for more than two consecutive terms. Judges would be elected at a general election. The Chief Justice shall be elected at large and two Supreme Court justices will be elected from each Court of Appeals district. This proposal also includes specific protections to allow judges to announce their views on disputed legal or political issues, solicit, receive and make campaign contributions and receive the benefit of campaign expenditures for their own campaigns. This should not impact their office.

Officials from the **Office of State Courts Administrator** indicated:

The initiative petition proposing to amend Article V would require the election of all Supreme Court, Courts of Appeal, Circuit Court and Associate Circuit Court Judges, if approved by the voters.

The proposed legislation would eliminate the appellate judicial commission, which would save \$7,741 annually.

Under the proposed legislation a Supreme Court judge, the Chief Justice or court of appeals judge may not serve more than two consecutive terms, which would result in a complete turnover every twelve years. As a result, the cost to training the new judges will increase. The cost for holding new judge orientation class can be from 20 participants to 50 participants and cost \$29,168 to \$54,568. There are 39 judicial positions in the state that this proposed legislation would affect so the cost of training is estimated to between \$29,168 and \$54,568 per year.

Judicial vacancies in the Supreme Court, Supreme Court Chief Justice and Court of Appeals, happen throughout the year. Under the proposed legislation, whenever a vacancy shall occur the Governor would appoint the judge to serve the remaining term. Some judicial positions could be vacant for an extended period. During this time, the courts would need to transfer sitting judges or bring in senior judges to handle the existing workload. Since there is no way to quantify the amount of transfers or senior judges that would be needed, the fiscal impact to the judiciary is unknown at this time. Any significant changes will be reflected in future budget request.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills

that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be \$7.8 million based on the cost of the 2016 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation. In FY 2017 their office was appropriated \$2.6 million to publish the full text of the measures. In FY 2017, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$2.4 million to publish (an average of \$400,000 per issue). Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact upon their office.

Officials from **Greene County** indicated there are no estimated costs or savings as a result of this amendment.

Officials from the **City of Kansas City** indicated this amendment will have no fiscal impact on their city.

Officials from the **Kansas City Election Board** indicated it depends on when these elections are held. If the election is held during a primary or general election during an even-numbered year, then the cost would be picked up by the City of Kansas City, MO and

Jackson County, MO. If the election is held at any other time, the state would pay it's pro-rata share of election costs. The average cost of a special election in the Kansas City portion of Jackson County is roughly \$500,000. Their pro-rata portion would be based on who else participated in that election.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **State Technical College**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**, **St. Louis County Board of Elections**, **Board of Election Commissioners City of St. Louis**, **Platte County Board of Elections**, **Jackson County Election Board**, and **Clay County Board of Election Commissioners**.

Fiscal Note Summary

State court officials estimate cost savings of approximately \$8,000 annually, increased training costs ranging from approximately \$29,000 to \$55,000 annually, and unknown annual costs related to judicial vacancies. Local governments estimate no costs or savings.